

UNITED STATES DISTRICT COURT  
for the  
MIDDLE DISTRICT OF TENNESSEE

U.S.A. vs. Brian Rhodes

Docket No. 0650 3:09CR00094 - 1

**Petition for Action on Conditions of Pretrial Release**

COMES NOW Daniel S Blackledge-White, PRETRIAL SERVICES OFFICER  
presenting an official report upon the conduct of defendant Brian Rhodes  
who was placed under pretrial release supervision by the Honorable Joe B. Brown  
sitting in the Court at Nashville, Tennessee, on March 31, 2009, under the following  
conditions: Please reference the attached Order Setting Conditions of Release.

Respectfully presenting petition for action of Court and for cause as follows:  
Please reference page two of this document.

I declare under penalty of perjury that the foregoing is true and correct.

Daniel S Blackledge-White  
U.S. Pretrial Services Officer

Nashville, TN  
Place:

October 11, 2012  
Date:

Next Scheduled Court Event

Event

Date

**PETITIONING THE COURT**

- ☐ No Action  
☐ To Issue a Warrant

- ☒ To issue an order setting a hearing on the petition  
☐ Other

**THE COURT ORDERS:**

- ☐ No Action  
☐ The Issuance of a Warrant.  
☐ Sealed Pending Warrant Execution  
(cc: U.S. Probation and U.S. Marshals only)  
☒ Other

- ☒ A Hearing on the Petition is set for

Mon. Oct. 29, 2012 2:00 pm  
Date Time

Considered and ordered this 16 day  
of Oct, 2012, and ordered filed  
and made a part of the records in the above  
case.

Honorable Joe Brown  
U. S. Magistrate Judge

Honorable Joe B. Brown  
Petition for Action on  
RHODES, Brian Marcelle  
Case No. 3:09-CR-00094-6  
October 10, 2012

On March 31, 2009, defendant Brian Marcelle Rhodes appeared before Your Honor for an Initial Appearance as a result of being charged with violating Title 21 U.S.C. §§ 841(a)(1) and 846, to wit: Conspiracy to Possess With Intent to Distribute Cocaine, a Schedule II Controlled Substance. He was released the same day on a personal recognizance bond with pretrial supervision.

On April 29, 2009, the defendant was charged by indictment with Conspiracy to Distribute and Possession With the Intent to Distribute 500 Grams or More of Cocaine.

On September 14, 2012, Mr. Rhodes' trial date was rescheduled to an unspecified date after March 4, 2013.

**Special Conditions of Release:**

Please reference the attached Order Setting Conditions of Release.

**VIOLATION(S):**

**Violation No. 1: The defendant shall not commit any offense in violation of federal, state or local law while on release in this case.**

On April 5, 2012, the defendant was arrested by local law enforcement in Hendersonville, Tennessee, subsequent to his involvement in an automobile accident. Mr. Rhodes was charged with Driving on a Revoked Driver License and Failure to Provide Proof of Insurance (Case No. 6493-2012).

**Violation No. 2: The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing before any change in address and telephone number:**

On September 18, 2012, the defendant reported to the U.S. Probation and Pretrial Services Office and indicated he had changed his residence approximately ten days prior. He was verbally reprimanded for moving without informing the Court beforehand. The defendant was instructed to contact his attorney and request that the Court be notified, in writing, of his change in address.

On October 4, 2012, the defendant's attorney provided a residential address for the defendant which did not match the address Mr. Rhodes provided to his pretrial services officer.

**Current Status of Case:**

The defendant's trial date has been continued to an unspecified date after March 4, 2013.

Honorable Joe B. Brown  
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**Probation Officer Action:**

On April 12, 2012, the defendant was instructed to obtain and provide proof of a valid Tennessee driver license and proof of automobile insurance.

On May 8, 2012, the defendant provided proof of insurance coverage. He indicated he owed several hundred dollars for traffic fines and infractions. Mr. Rhodes was instructed to pay the fines and take the steps necessary to reinstate his driver license.

On August 21, 2012, the defendant provided a valid Tennessee driver license to his pretrial services officer. During this monthly appointment, defendant Rhodes also expressed his intent to move due to a rent increase. The supervising officer reiterated that the Court must be notified, in writing, of any residential changes prior to moving. Further, he was instructed to contact his attorney and request that the Court be notified of his new address.

Subsequent to the defendant's reported change in address on September 18, 2012, a home assessment was attempted. Mr. Rhodes was contacted via telephone, and he indicated he was at work. He stated that his brother, with whom he lived, would meet us at the residence. After several phone calls, the defendant called this officer and indicated no home assessment could be conducted because he did not have a key. Mr. Rhodes was again questioned about his residency, and he reported he lived at the residence listed on his monthly supervision report. He expressed his intent to move to a different residence in a few weeks. Defendant Rhodes was again reminded that the Court must be notified before he moves.

On October 4, 2012, this officer contacted defense counsel Michael Terry and inquired about notification to the Court regarding the defendant's change in residency. Mr. Terry stated he would obtain the defendant's home address and provide it to me. Attorney Terry contacted this officer and provided a residential address for the defendant that differed from the one provided by the defendant. He indicated he would advise the Court of the circumstances regarding Mr. Rhodes' change in residency. A review of U.S. District Court case filings on October 10, 2012, revealed the Court has yet to be notified of Mr. Rhodes' change in address.

The defendant is scheduled to appear in Sumner County Criminal Court, located in Gallatin, Tennessee, on October 12, 2012, in regards to his April 5, 2012, arrest for Driving on a Revoked Driver License and Failure to Provide Proof of Insurance. He was instructed to provide this officer with the disposition of the case on the same date.

Honorable Joe B. Brown  
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**Respectfully Petitioning the Court as Follows:**

Pretrial Services respectfully recommends a hearing be set during which time the defendant can provide the Court with his true residential address. Assistant United States Attorney Sunny Koshy has been advised of the most recent violations and concurs with the recommendation of Pretrial Services.

Approved:

A handwritten signature in black ink, appearing to read "William B. Putman", is written over a horizontal line.

William Burton Putman  
Supervisory U.S. Probation Officer

xc: Sunny Koshy, Assistant U.S. Attorney  
Michael Terry, Defense Counsel

# UNITED STATES DISTRICT COURT

MIDDLE

District of

TENNESSEE

United States of America

V.

## ORDER SETTING CONDITIONS OF RELEASE

Brian Rhodes

Case Number: 09-3085 MB

Defendant

IT IS ORDERED that the release of the defendant is subject to the following conditions:

- (1) The defendant shall not commit any offense in violation of federal, state or local law while on release in this case.
- (2) The defendant shall immediately advise the court, defense counsel and the U.S. attorney in writing before any change in address and telephone number.
- (3) The defendant shall appear at all proceedings as required and shall surrender for service of any sentence imposed as directed. The defendant shall appear at (if blank, to be notified) \_\_\_\_\_

Place

on \_\_\_\_\_

Date and Time

### Release on Personal Recognizance or Unsecured Bond

IT IS FURTHER ORDERED that the defendant be released provided that:

- ( ☒ ) (4) The defendant promises to appear at all proceedings as required and to surrender for service of any sentence imposed.
- ( ☐ ) (5) The defendant executes an unsecured bond binding the defendant to pay the United States the sum of \_\_\_\_\_ dollars (\$ \_\_\_\_\_ ) in the event of a failure to appear as required or to surrender as directed for service of any sentence imposed.

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## Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community.

IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

( ) (6) The defendant is placed in the custody of:

(Name of person or organization) \_\_\_\_\_

(Address) \_\_\_\_\_

(City and state) \_\_\_\_\_

(Tel. No.) \_\_\_\_\_

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: \_\_\_\_\_

Custodian or Proxy

Date \_\_\_\_\_

( ) (7) The defendant shall:

( ) (a) report to PRETRIAL SERVICES AS DIRECTED,  
telephone (615) 736-5771, not later \_\_\_\_\_.

( ) (b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property: \_\_\_\_\_

( ) (c) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described \_\_\_\_\_

( ) (d) execute a bail bond with solvent sureties in the amount \_\_\_\_\_.

( ) (e) maintain or actively seek employment.

( ) (f) maintain or commence an education program.

( ) (g) surrender any passport \_\_\_\_\_

( ) (h) obtain no passport.

( ) (i) abide by the following restrictions on personal association, place of abode, or travel: \_\_\_\_\_

( ) (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation prosecution, including but not limited \_\_\_\_\_

( ) (k) undergo medical or psychiatric treatment and/or remain in an institution as \_\_\_\_\_

( ) (l) return to custody each (week) day as of \_\_\_\_\_ o'clock after being released each (week) day as of \_\_\_\_\_ o'clock for employment, schooling, or the following limited \_\_\_\_\_

( ) (m) maintain residence at a halfway house or community corrections center, as deemed necessary by the pretrial services office or supervising \_\_\_\_\_

( ) (n) refrain from possessing a firearm, destructive device, or other dangerous weapons.

( ) (o) refrain ( ) any (x) excessive use of alcohol.

( ) (p) refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

( ) (q) submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.

( ) (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services office or supervising officer.

( ) (s) refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or electronic monitoring which is (are) required as a condition(s) of release.

( ) (t) participate in one of the following home confinement program components and abide by all the requirements of the ( ) will or ( ) will not include electronic monitoring or other location verification system. You shall pay all or part of the cost of the program based upon to pay as determined by the pretrial services office or supervising officer.

( ) (i) Curfew. You are restricted to your residence every day ( ) from \_\_\_\_\_ to \_\_\_\_\_, or ( ) as directed by the pretrial services office or supervising officer; or

( ) (ii) Home Detention. You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the pretrial services office or supervising officer; or

( ) (iii) Home Incarceration. You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the pretrial services office or supervising officer.

( ) (u) report as soon as possible, to the pretrial services office or supervising officer any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.

(x) (v) See Attached

( ) (w) \_\_\_\_\_

( ) (x) \_\_\_\_\_

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- (a) Report the U.S. Pretrial Services as directed.
- (e) Maintain or actively seek employment.
- (h) Obtain no passport:
- (i) Abide by the following restrictions on personal association, place of abode, or travel:

Restricted to the Middle District of Tennessee without prior approval by the Court.

- (n) Refrain from possessing a firearm, destructive device, or other dangerous weapons.
- (p) Refrain from use or unlawful possession of a narcotic drug or other controlled substances as defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.
- (q) Submit to any method of testing required by the pretrial services officer or supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.
- (r) Participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services officer or supervising officer
- (u) Report as soon as possible, and at least within 48 hours, to the pretrial services officer any contact with any law enforcement personnel, including but not limited to, any arrest, questioning, or traffic stop.
- (v) other: Shall permit the pretrial services officer to visit you at home or elsewhere at any time, and shall allow the pretrial services officer to confiscate any contraband observed in plain view.



Advice of Penalties and Sanctions

TO THE DEFENDANT:

YOU ARE ADVISED OF THE FOLLOWING PENALTIES AND SANCTIONS:

A violation of any of the foregoing conditions of release may result in the immediate issuance of a warrant for your arrest, a revocation of release, an order of detention, and a prosecution for contempt of court and could result in a term of imprisonment, a fine, or both.

The commission of a Federal offense while on pretrial release will result in an additional sentence of a term of imprisonment of not more than ten years, if the offense is a felony; or a term of imprisonment of not more than one year, if the offense is a misdemeanor. This sentence shall be in addition to any other sentence.

Federal law makes it a crime punishable by up to 10 years of imprisonment, and a \$250,000 fine or both to obstruct a criminal investigation. It is a crime punishable by up to ten years of imprisonment, and a \$250,000 fine or both to tamper with a witness, victim or informant; to retaliate or attempt to retaliate against a witness, victim or informant; or to intimidate or attempt to intimidate a witness, victim, juror, informant, or officer of the court. The penalties for tampering, retaliation, or intimidation are significantly more serious if they involve a killing or attempted killing.

If after release, you knowingly fail to appear as required by the conditions of release, or to surrender for the service of you may be prosecuted for failing to appear or surrender and additional punishment may be imposed. If you are convicted of:

- (1) an offense punishable by death, life imprisonment, or imprisonment for a term of fifteen years or more, you shall be fined not more than \$250,000 or imprisoned for not more than 10 years, or both;
- (2) an offense punishable by imprisonment for a term of five years or more, but less than fifteen years, you shall be fined not more than \$250,000 or imprisoned for not more than five years, or both;
- (3) any other felony, you shall be fined not more than \$250,000 or imprisoned not more than two years, or both;
- (4) a misdemeanor, you shall be fined not more than \$100,000 or imprisoned not more than one year, or both.

A term of imprisonment imposed for failure to appear or surrender shall be in addition to the sentence for any other offense. In addition, a failure to appear or surrender may result in the forfeiture of any bond posted.

Acknowledgment of Defendant

I acknowledge that I am the defendant in this case and that I am aware of the conditions of release. I promise to obey all conditions of release, to appear as directed, and to surrender for service of any sentence imposed. I am aware of the penalties and sanctions set forth above.

Signature of Defendant

XX

Address

XX

City and State

Telephone

Directions to United States Marshal

- ( x ) The defendant is ORDERED released after processing.
- ( ) The United States marshal is ORDERED to keep the defendant in custody until notified by the clerk or judicial officer that the defendant has posted bond and/or complied with all other conditions for release. The defendant shall be produced before the appropriate judicial officer at the time and place specified, if still in custody.

Date: March 31, 2009

Signature of Judicial Officer

Joe B. Brown, US Magistrate Judge  
Name and Title of Judicial Officer

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